



Convention on the Rights of the Child

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Committee on the Rights of the Child Seventy-first session

Summary record of the 2088th (Chamber A) meeting

Held at the Palais des Nations, Geneva, on Friday, 22 January 2016, at 10 a.m.

Chair: Ms. Muhamad Shariff (Vice-Chair)

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The meeting was called to order at 10.05 a.m.

Consideration of reports of States parties (continued)

Combined second to fourth periodic reports of Zambia (CRC/C/ZMB/2-4; CRC/C/ZMB/Q/2-4)

1. *At the invitation of the Chair, the delegation of Zambia took places at the Committee table.*
2. **Mr. Kalaluka** (Zambia), introducing the combined second to fourth periodic reports of Zambia, said that, for the first time, the views of children from various parts of the country had been included in the State party report. The country was currently undergoing a process of constitutional reform, which would culminate in a referendum to amend the Bill of Rights in August 2016. The proposed amendments would include provisions on the protection and promotion of the rights of the child, chief among them a definition of the child in line with the Convention on the Rights of the Child. Over the past five years, the Government had enacted a number of pieces of legislation to enhance the rights of children, such as the 2011 Education Act, which provided for the right to free basic education, made school attendance compulsory for children of school age, prohibited educational institutions from discriminating against children on any grounds and made it an offence to marry off school-going children. The 2011 Anti-Gender-Based Violence Act provided for the establishment of shelters for victims, including specific facilities for children; the first children's shelter had been completed in Mansa and two more were under construction. Under that Act, child marriage was classified as a form of physical, mental, social and economic abuse. The 2012 Persons with Disabilities Act incorporated the Convention on the Rights of Persons with Disabilities and its Optional Protocol into domestic law and criminalized the failure by parents of children with disabilities to send them to school.
3. The Government was currently reviewing the Children's Code Bill, which would consolidate the various laws providing for the rights and welfare of children, harmonize the definition of the child in all legislation, and incorporate the Convention and other regional and international treaties on children's rights into domestic law. In 2015, the Government had launched the National Child Policy to provide the institutional framework for the implementation of all programmes for children. In 2014, it had introduced the minimum standards of care for childcare facilities to ensure that children who were not in a family environment were protected and cared for in accordance with international standards. The Government recognized that institutional care was a measure of last resort and was endeavouring to enhance alternative care programmes, such as foster care, adoption and kinship care. Guidelines on foster care, adoption and reintegration were being finalized.
4. Significant progress had been made in relation to overall indicators of the health status of children. For example, between 2007 and 2014, the under-5 mortality rate had fallen from 119 per 1,000 live births to 75 per 1,000 live births, the infant mortality rate had declined from 70 per 1,000 live births to 45 and the neonatal mortality rate had decreased from 37 per 1,000 live births to 24. The Government had continued to invest in the health sector: specialized modern equipment had been installed in six general hospitals across the country and the construction of 38 new district hospitals was under way. Significant strides had also been made in the education sector: more than 1,500 early childhood education centres had been operationalized in rural and remote areas nationwide, with an initial enrolment of 70,000 children. In 2016, the Government would be implementing a policy to reduce primary and secondary school fees.
5. The Government remained committed to protecting the marginalized in society, especially children. The number of households benefiting from the Social Cash Transfer

Scheme had increased from 145,000 in 2014 to 191,000 in 2015, and the scheme was being scaled up from 50 districts in 2015 to 77 districts in 2016. Many of the beneficiaries of the scheme were children. Despite those and other achievements, however, the Government continued to face many challenges, particularly in respect of financial resources, which had resulted in delays to children's programmes. Nonetheless, children remained a top priority for the Government.

6. Due to time constraints and a miscommunication, the Government had not been able to obtain full responses to the Committee's list of issues, but would address the issues with the information currently available and provide the Committee with further information at a later date.

7. **Mr. Madi** (Country Rapporteur) said that he welcomed the inclusion of children's views in the State party report. However, it was regrettable that the Committee had only just received a copy of the written replies to its list of issues, which should have been available as a document in October 2015. The constitutional reform process was a positive development, and he would be interested to know more about the proposed amendments related to children's rights. The Committee was concerned that the process of reviewing legislation related to children to bring it into line with the Convention, while welcome, was taking an unduly long time. He wished to know whether any progress had been made in establishing or designating a body to coordinate implementation of the Convention and why the provision on the establishment of the National Child Council had been removed from the draft Children's Code. He would also like to know why the State party had not ratified any of the optional protocols to the Convention.

8. While social spending had increased, the education budget remained insufficient to ensure that schools were properly equipped and staffed, and expenditure on health was also inadequate. He invited the delegation to comment on the fact that, although the Office of the Commissioner for Children had been established in 2009 and mandated to receive and investigate complaints of violations of children's rights, the Commissioner had not yet been appointed and the Office was inadequately funded and staffed. It seemed that the Government was doing little to disseminate the Convention, which had not been translated into local languages, among the general public, and children in particular. He asked whether NGOs had participated in the preparation of the report.

9. He would be interested to know more about the section of the Sixth National Development Plan on children. He would also like to know if the Government had developed a regulatory framework for the mining industry, whose activities had a negative impact on children's rights and the environment. Did it conduct inspections of mining operations, such as the lead mines in Kaḵwe? Although the legal age for marriage was 21, many girls entered into marriage before the age of 18, which was a serious concern that needed to be addressed. He noted that the number of complaints of defilement of children lodged with the police was on the rise. Given that the majority of complaints did not lead to prosecution, he wondered what the barriers were to enforcement of the law on defilement.

10. He asked the delegation to comment on the vulnerability of Zambian children to different forms of violence in various settings and what efforts were being made to build capacity in law enforcement, the judiciary and the education system and to train community and religious leaders to deal with such problems. Had studies been conducted on domestic violence, including child sexual abuse, as previously recommended by the Committee? What measures were in place to ensure the protection and rehabilitation of child victims of violence? The Committee was concerned that corporal punishment continued to be practised in Zambia and especially that, in the absence of an explicit prohibition of corporal punishment in all settings, there was abuse of the exception in the Juveniles Act that permitted parents, teachers and other persons having the lawful

control or charge of a child to administer lawful punishment to them. Would corporal punishment be expressly prohibited under the amended Bill of Rights?

11. **Mr. Rodríguez Reyes** (Country Rapporteur) said that he would welcome an update on the outcome of the Sixth National Development Plan, and asked whether a new plan was now in force. He would like to know whether children belonging to vulnerable groups, such as children with disabilities or HIV, migrants, refugees and orphans, had the same opportunities as other children to access education, health care, social services and the justice system. Had the State party made any effort to collect disaggregated data on children so as to identify possible patterns of discrimination that could guide public policy? Did protection against discrimination cover children of all ages in all circumstances? Was information on non-discrimination included in school curricula? Were there any obstacles to Muslim children having identity cards issued under the traditional Muslim name given to them by their parents? In daily life, did girls have less time for play and leisure than boys because of the unequal distribution of domestic tasks? If so, what was being done to address that problem?

12. He requested an update on the status of the draft Children's Code and plans for its dissemination and for raising awareness of the principle of the best interests of the child. Was that principle also reflected in other legislation and was it applied by judges and civil servants, including in rural areas? Had the authorities sensed any hostility, in particular from religious or community leaders, to that principle? Were the best interests of the child taken into account when budgets were drawn up?

13. He asked whether children could ask to be heard on the subject of any arrangements affecting them, especially those related to their sexual and reproductive health. He wished to know whether children could refuse to enter into marriages arranged for them by their parents or other adults and what would happen if it was found that a court had reached a decision affecting a child without taking the child's best interests into account. He also asked whether the authorities had reached out to families in an attempt to ensure that children could exercise their right to be heard in the family setting and whether any materials had been developed to help people who made decisions on behalf of children learn to take their views into account.

14. He would welcome information on the main social programmes targeting the large percentage of children living in poverty in the State party. He also wished to know whether the hospital programme designed to ensure that all births were immediately registered had been implemented throughout the country or only in certain areas. If only the latter, were there any plans to expand the programme to all parts of the country? Did refugees have any trouble registering the births of their children?

15. Regarding freedom of religion, he asked whether children had the right to abstain from taking part in religious rites at school and, conversely, whether they could freely express their religious beliefs in school settings. In addition, he wondered whether the State party had a policy of requiring the media to seek permission before broadcasting images of children and whether it had any bodies, such as a children's parliament, enabling children to take part in decision-making processes.

16. **Mr. Gurán** said that he would appreciate clarification on the current status of the State party's Office of the Commissioner for Children. How many complaints from or on behalf of children had it received and how had those complaints been handled?

17. **Ms. Aho Assouma**, noting that the birth registration system appeared to be highly centralized, asked how people living in rural areas managed to register their children and obtain birth certificates for them. She wished to know how much birth certificates cost, whether any plans had been made to deliver them free of charge, in particular for newborn children, and, more generally, what was being done to facilitate the entire process. She also wondered what was being done to ensure that the children of refugees

residing illegally in the State party and children delivered in non-hospital settings were issued with birth certificates and whether any of the birth registration desks that had been opened in 122 health facilities were located in rural areas.

The meeting was suspended at 11.05 a.m. and resumed at 11.25 a.m.

18. **Mr. Kalaluka** (Zambia) said that amendments to the country's Bill of Rights, which formed one section of the Constitution, required a popular referendum in which more than 50 per cent of eligible voters cast a vote. Such a referendum would be held in October 2016, and if it passed, the Bill of Rights would be amended to include a number of detailed provisions relating specifically to children's rights. Amendments to other sections of the Constitution did not require a popular referendum.

19. **Ms. Sandberg** asked whether the initiative to amend the Constitution's Bill of Rights was likely to pass.

20. **Mr. Kalaluka** (Zambia) said that there appeared to be little organized opposition to the amendments. The challenge was likely to be ensuring sufficient voter turnout.

21. **Mr. Madi** asked whether other amendments to the Constitution, such as the one defining a child as anyone under the age of 18, had been adopted by the National Assembly.

22. **Mr. Kalaluka** (Zambia) said that the amendment establishing the age of majority had not been part of the proposed amendments to the Bill of Rights. It had been approved by the National Assembly and signed into law by the President. The Government preferred to adopt the Children's Code Bill and amend a number of laws, including the Bill of Rights, before proceeding with ratification of the three optional protocols to the Convention. The provision concerning the National Child Council had not been removed from the Children's Code Bill.

23. **Mr. Madi** asked whether the National Child Council would have the authority to coordinate inter-agency efforts to implement the Convention.

24. **Mr. Zulu** (Zambia) said that when the Children's Code Bill became law, the National Child Council would have authority over other official bodies, including ministries, in areas falling within its remit.

25. **Ms. Oteng** (Zambia) added that the National Child Council would have statutory powers.

26. **Ms. Sandberg** asked whether the Council would have the authority over ministries to ensure that they fulfilled their obligations in respect of the implementation of the Convention. She understood that the mandate to coordinate efforts to implement the Convention would not be the Council's alone, but shared with another body. Would sharing the mandate not cause problems?

27. **Mr. Zulu** (Zambia) said that if the National Assembly adopted the Children's Code Bill, appropriate action would be taken to ensure that duplication of effort and conflict were avoided.

28. **Mr. Kalaluka** (Zambia) said that the country's courts had ruled that a body that had been established with specific functions relating to a given area of activity had authority over the activities of other bodies in that area. The aim of the Children's Code Bill had been to bring all laws pertaining to children into a single text.

29. With regard to the claim that the health and education budgets were inadequate, he pointed out that, for the current year, they had in fact been increased substantially.

30. **Mr. Rodriguez Reyes** asked when the Children's Code Bill was likely to be adopted.

31. **Mr. Kalaluka** (Zambia) said that if the referendum approving the amendments to the Bill of Rights passed, it was likely to be among the first pieces of proposed legislation brought before the National Assembly.
32. **Mr. Madi** asked why the Bill could not be submitted to the National Assembly for priority consideration.
33. **Mr. Kalaluka** (Zambia) said that the current Bill of Rights in the Constitution made no reference to children's rights. Thus, to ensure the validity of the new Children's Code, a basis needed to be established for it in the Constitution before it could be adopted. Once the new Bill of Rights and Constitution, containing such references, were adopted, parliament would prioritize the enactment of the Code.
34. The President had appointed the seven new members of the Human Rights Commission. It remained for the National Assembly to ratify the appointments and then for the commissioners to appoint one of their number as Commissioner for Children.
35. **Ms. Sandberg** asked whether any of the commissioners had particular interests or experience that would qualify them for the post of Commissioner for Children.
36. **Mr. Kalaluka** (Zambia) said that careful consideration had been given in the nomination process to all the candidates' skills and qualifications.
37. **Mr. Madi** said that he would like to know, specifically, how many complaints had been lodged by children themselves with the Office of the Commissioner for Children, how they had been dealt with and what the outcome had been.
38. **Mr. Kalaluka** (Zambia) said that he would supply that information after the meeting. With regard to the application by the courts of the principle of the best interests of the child, he said that the Supreme Court had established a legal precedent by ruling that those interests were always paramount. Hence, any ruling that did not take them into account could be challenged in a higher court. Under the amended Constitution, any customary law that went against its provisions, as did child marriage, would be invalid. Child marriages usually occurred in rural areas and the Government was endeavouring to sensitize all communities to the illegality of the practice. It considered child marriage to be a form of child abuse.
39. **Mr. Madi** asked whether there was any reference in the Constitution to the best interests of the child and to the legal minimum age of marriage.
40. **Mr. Rodríguez Reyes** said he would be interested to know whether there was any specific training programme for judges on the application of the best interests of the child in their judgements.
41. **Mr. Kalaluka** (Zambia) said that the best interests of the child were mentioned in article 61 of the draft Bill of Rights, as was the child's right not to marry or be forced to marry. The minimum legal age of marriage was not stated explicitly, but the age of majority was set at 18 years, meaning that anyone younger than that was a child and so could not marry. Training for judges was an ongoing problem but the Government fully intended to ensure that all officials dealing with children were fully sensitized to children's rights and best interests.
42. Concern about the harmful effects of mining, particularly lead mining in Kabwe, had given rise to the Mines and Minerals Development Act and the Environmental Management Act, which formed a legal framework to prevent mining activities from endangering human life and the environment. Enforcement was not yet satisfactory, but the political will existed to improve it. Due note had been taken of the alternative report by Terre des Hommes Germany.

43. **Ms. Ziela** (Zambia) said that the Zambia Orphans and Vulnerable Children Management Information System (ZOMIS) had been launched recently to provide information that would help in planning for the needs of vulnerable children.

44. **Mr. Zulu** (Zambia) said that the new National Child Policy and Plan of Action proposed a multisectoral approach to improving children's welfare and would allow the children themselves to participate.

45. **Ms. Chitupila** (Zambia), responding to a question on how children's views on sexual and reproductive health rights were listened to, said that the Ministry of Education had established safe spaces in schools where adolescents could discuss those issues and mentors could identify any needs to be addressed. Space was also provided in clubs to help boys to deal with issues of masculinity and thus prevent violence against girls. The only resistance to the initiative had come from persons anxious to avoid cultural change, but civil society organizations were helping to promote its social acceptance. It was true that very few complaints of gender-based violence, especially that committed against children, had led to trials or convictions. That was because perpetrators were often family members of the victims and so it was difficult to convince victims or witnesses to testify, as doing so might deprive them of their economic support or mean going against a figure of authority. DNA testing equipment had recently been acquired and would help provide evidence to avoid reliance on witness or victim statements that might later be withdrawn. A system of fast-track courts had also been launched to reduce the time it took for such cases to be brought to court and thus the possibility of witnesses being tampered with. A specialized unit on gender-based violence had been set up within the National Prosecution Authority and witness liaison officers were available to help children, in particular, feel at ease in the proceedings. It was hoped that the prosecution and conviction rate would improve as a result.

46. **Mr. Rodríguez Reyes** asked whether the new decentralized birth registration system covered rural areas.

47. **Ms. Sandberg** noted that there was still only one central office that issued birth certificates, meaning that they might not be received for a long time.

48. **Mr. Kalaluka** (Zambia) said that the system covered all rural areas as far as was possible and steps were being taken to similarly decentralize the issuance of the certificates.

49. **Ms. Sandberg** said she would be interested to receive specific figures on birth registration, as it was reported to be extremely low. Were there mobile registration units in addition to those attached to clinics and hospitals and what was being done to make parents aware of the importance of registering their child's birth?

50. **Mr. Kalaluka** (Zambia) said that mobile registration units catered for people in remote locations, including refugees, but more awareness-raising was needed to improve the figures.

51. **Ms. Assouma** said she would welcome information on the functioning and funding of the mobile units, the training provided for their staff and whether registration was free.

52. **Ms. Ziela** (Zambia) said that births could also be registered in health centres. Whenever children under the age of 5 were brought in for medical care, the parents were informed of the importance of registering them. Registration was free for those children, although they would need to travel to the health centre or district office. The situation was more complicated for older children, but birth certificates were required for school enrolment, which gave parents another incentive to register their child's birth. Peer educators and theatre groups also worked to convey the message.

53. **Mr. Kalaluka** (Zambia) confirmed that NGOs had participated in the preparation of the periodic report. He went on to say that, under Zambian law, the media were prohibited from broadcasting or publishing of images of children, except in a few special situations where the parents had given their consent. Corporal punishment was prohibited in schools and in all other institutions.

54. **Ms. Aldoseri**, noting that physical disciplining of a child by their parent or legal guardian was permitted, asked if the prohibition on corporal punishment also applied in family settings.

55. **Mr. Kalaluka** (Zambia) said that the prohibition on corporal punishment applied in all settings. While it was true that some parents and guardians might use physical measures to discipline their children, that issue was being addressed through a number of awareness-raising programmes.

56. **Mr. Zulu** (Zambia) said that, since its ratification of the Convention, Zambia had made continuous efforts to raise awareness of the Convention. For example, the Convention had been translated into all seven languages used in the media, and an easy-to-read, child-friendly version of the Convention had also been produced with support from the United Nations Children's Fund (UNICEF). The Government funded radio and television programmes to publicize the Convention. Children's rights clubs, known as "Convention on the Rights of the Child clubs", had been established in almost all State schools.

57. **Mr. Madi** said that efforts to raise awareness about the harmful effects of corporal punishment should be accompanied by explicit legal provisions prohibiting such punishment in all settings. It seemed that loopholes in the current legislation could lead to misinterpretation, and he wished to know how the Government planned to address that problem. Welcoming the State party's new approach to children's rights, he urged Zambia to review its legislation on corporal punishment and bring it into line with the Convention.

58. **Mr. Kalaluka** (Zambia) said that torture and inhumane or degrading treatment were prohibited by law. In some cases, however, light punishments might be used by parents in the raising of their children. The issue would need to be considered by the Constitutional Court to determine exactly which punishments were lawful.

59. **Mr. Rodríguez Reyes** said that, according to information before the Committee, about 20,000 households in the State party were headed by children. He asked what financial or other support was provided to children living on their own without an adult. He also asked whether the Government had adopted any policies to prevent the exploitation of street children. He requested detailed information about the monitoring of foster families and institutions that provided alternative care for children, and he asked whether there were any policies that sought to provide a family environment for children whenever possible.

60. He wished to know the adoption rate in the country and asked whether there were any mechanisms in place to ensure transparency in adoption procedures and to find the most appropriate adoptive family for each child. He asked whether the State party had compiled and analysed data on the situation of children with disabilities and whether those data had been disaggregated by sex, age, type of disability, ethnic origin and geographic location.

61. He wished to know whether Zambia had adopted an action plan, including specific goals and indicators, to address the situation of children with disabilities. If so, the delegation should indicate who was responsible for implementing and for monitoring implementation of the plan. Were there any plans or programmes to raise awareness about discrimination against children with disabilities and prevent their stigmatization?

Data on the number of inclusive schools and the number of training centres for professionals working with children with disabilities would be welcome.

62. He requested data on the percentage of the State budget that was earmarked for health-care services and on how that percentage had changed from year to year. He would appreciate it if the delegation would comment on the high rate of neonatal mortality in Zambia and describe any policies in place to ensure that basic emergency obstetric care was available throughout the country. Information on policies to improve child nutrition would also be welcome.

63. With regard to adolescent health, he asked what options were available to adolescents who wished to safely terminate an unwanted pregnancy and what measures were in place to raise their awareness about the use of contraceptives. He wished to know about access to antiretroviral drugs for adolescents living with HIV, including in rural areas. Lastly, he asked whether there were any mental health facilities exclusively for children and adolescents and, if not, whether children were separated from adults in mental health facilities.

64. **Mr. Madi**, welcoming the establishment of early childhood education services in some primary schools, encouraged the State party to build on the progress achieved by expanding those services. Noting that, despite the measures taken, the quality of education remained poor in many areas, he said that further efforts were needed to encourage girls to enrol in and remain in school and to improve teacher training in the State party. He wished to know whether human rights education was included in the school curriculum.

65. He asked if it was true that only one afternoon per week was devoted to extracurricular activities in schools. The Committee was concerned to note that many public libraries and parks had been leased to private companies, who sometimes charged fees to access those facilities.

66. He asked whether the new draft Constitution included provisions to strengthen protection for refugees and prevent statelessness. While the Refugee Bill did promise to improve the situation of refugees, it would still impose certain restrictions on them. He recommended a comprehensive review of the Bill with a view to providing legal and procedural safeguards for all refugees and asylum seekers and ensuring that their children had access to health and education services. He urged the State party to withdraw its reservations to the Convention relating to the Status of Refugees and the Convention relating to the Status of Stateless Persons and to accede to the Convention on the Reduction of Statelessness. In addition, the State party should review its national legislation to bring it into line with articles 7 and 8 of the Convention on the Rights of the Child.

67. With regard to young persons in conflict with the law, the Committee was deeply concerned that the age of criminal responsibility still stood at 8 years. He noted that there was no law specifically providing for a diversion programme for young offenders. Individuals who could not afford legal representation were at a serious disadvantage, as their cases were often delayed. Prisons and police custody cells suffered from poor infrastructure and overcrowding, and not all detention centres had separate cells for children. He asked how the State party planned to address those shortcomings.

68. He wished to know about the services provided to young children living in the prisons where their mothers were incarcerated. An alarmingly high number of children were involved in child labour, and in many cases they were employed in hazardous jobs that interfered with their education. The Committee would appreciate information on measures being taken to address that problem.

69. Noting that more than 2,400 cases of sexual exploitation and abuse of children had been reported in 2014, he asked how many of those cases had been brought to court, how many had resulted in convictions, and what measures were being taken to protect children and rehabilitate child victims. He wished to hear about the reaction from the public and in the media to the pardoning of Clifford Dimba, who had been convicted of raping a 14-year-old girl. According to information before the Committee, internal human trafficking within Zambia was on the rise. It would be useful to hear about any efforts to prevent such trafficking and to investigate and prosecute traffickers and rehabilitate the victims.

The meeting rose at 1.05 p.m.